

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

FAIRFIELD SENTRY LIMITED, *et al.*,

Debtors in Foreign Proceedings.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC, as
assignee of Fairfield Sentry Limited,

Plaintiff,

v.

FAIRFIELD GREENWICH GROUP, FAIRFIELD
GREENWICH (BERMUDA), LIMITED, FAIRFIELD
GREENWICH ADVISORS LLC, FAIRFIELD
GREENWICH LIMITED, FAIRFIELD
INTERNATIONAL MANAGERS, INC., WALTER
NOEL, JR., JEFFREY TUCKER, ANDRÉS
PIEDRAHITA, AMIT VIJAYVERGIYA, PHILIP
TOUB, and CORINA NOEL PIEDRAHITA,

Defendants.

FAIRFIELD GREENWICH (BERMUDA), LIMITED,

Third-Party Plaintiff,

v.

FAIRFIELD SENTRY LIMITED (IN LIQUIDATION),

Third-Party Defendant.

**ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANTS' MOTION TO DISMISS**

WHEREAS, Irving H. Picard (the "Trustee") is the trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities

Investor Protection Act, 15 U.S.C. §§ 78aaa-lll (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff (“Madoff”), and is the assignee of claims from Fairfield Sentry Limited (“Fairfield Sentry”) in the above-captioned adversary proceeding (the “Adversary Proceeding”);

WHEREAS, on or about February 22, 2019, the Trustee filed a motion for leave to file a Second Amended Complaint in the Adversary Proceeding on behalf of Fairfield Sentry, alleging claims against defendants Fairfield Greenwich Group, Fairfield Greenwich (Bermuda), Limited (“FG Bermuda”), Fairfield Greenwich Advisors LLC, Fairfield Greenwich Limited (“FG Limited”), Fairfield International Managers, Inc., Walter Noel, Jr., Jeffrey Tucker, Andrés Piedrahita, Amit Vijayvergiya, Philip Toub and Corina Noel Piedrahita (collectively, “Defendants”);

WHEREAS, this cause having come before the Court on the motion of Defendants, by and through their counsel, seeking entry of an order granting Defendants’ Motion to Dismiss the Second Amended Complaint (“Defendants’ Motion”);

WHEREAS, this Court, having considered the Memorandum of Law in Support of Defendants’ Motion (ECF No. 99); the Declaration of Peter E. Kazanoff in Support of Defendants’ Motion (ECF No. 100) and its accompanying exhibits (ECF No. 100-1 – 100-8); the Trustee’s Memorandum of Law in Opposition to Defendants’ Motion (ECF No. 118); the Declaration of Jonathan A. Forman in Support of the Opposition to Defendants’ Motion (ECF No. 119) and its accompanying exhibits (ECF No. 119-1 – 119-8); the Defendants’ Reply Memorandum of Law in Support of Defendants’ Motion (ECF No. 129); the Trustee’s Supplemental Memorandum of Law in Opposition to Defendants’ Motion (ECF No. 141); the letter to the Honorable Cecelia G. Morris regarding the conflict of law analysis (ECF No. 145);

the Defendants' Supplemental Memorandum of Law in Further Support of Defendants' Motion (ECF No. 146); and the letter to the Honorable Cecelia G. Morris regarding the choice of law (ECF No. 149);

WHEREAS, on February 10, 2021, the Court granted the Trustee's motion for leave to file the Second Amended Complaint and heard oral argument on Defendants' Motion; and

WHEREAS, on March 25, 2021, the Court issued a Memorandum Decision Denying Defendants' Motion to Dismiss in Part, ECF No. 161, which is incorporated herein and made a part hereof,

NOW, THEREFORE, IT IS HEREBY ORDERED, that

1. As to the First Claim (Breach of Contract against FG Limited under the 2002 Investment Management Agreement), to which the Court applied New York law; the Second Claim (Breach of Contract against FG Bermuda under the 2003 Investment Management Agreement), to which the Court applied Bermuda law; the Third Claim (Breach of Contract against FG Bermuda under the 2004 Investment Management Agreement), to which the Court applied Bermuda law; and the Fifth Claim (Constructive Trust against all Defendants), to which the Court applied British Virgin Islands ("BVI") law, Defendants' Motion is DENIED;

2. As to the Fourth Claim (Unjust Enrichment against all Defendants), to which the Court applied BVI law, the Motion to Dismiss is GRANTED as to FG Limited and FG Bermuda; and DENIED as to all other Defendants; and

3. The Trustee is permitted to conduct jurisdictional discovery to determine whether general jurisdiction exists over Andres Piedrahita.

**Dated: April 8, 2021
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
Chief U.S. Bankruptcy Judge**